

Exhibit 5

EXHIBIT 5

**DECLARATION OF GREGORY A. SMITH
IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

Gregory A. Smith, upon oath and affirmation, hereby deposes and says:

1. I make this declaration upon my personal knowledge of the facts, and I am competent to testify to the facts stated herein.
2. I am 74 years old and a resident of Stoughton, Massachusetts. I have five children and nine grandchildren.
3. I oppose the practice of abortion because of my religious and moral beliefs that induced abortion is the deliberate destruction of innocent human life, and because my understanding of biology is that life begins at conception.
4. I am aware that, on or about November 13, 2007, the Commonwealth of Massachusetts amended Mass. Gen. L. chapter 266: Section 120E1/2(b) and that law now prohibits most persons from standing or entering a fixed buffer with a radius of 35-feet (hereafter, "zone") around the entrances, exits, and driveways of reproductive health care facilities that perform abortions unless the person is using the sidewalk or street right-of-way adjacent to the facility solely for the purpose of reaching a destination other than the facility.
5. The meaning of the term "solely for the purpose of reaching a destination other than the facility" is unclear to me. I do not know whether the Act prohibits me from walking through the zone to talk with a person on the opposite side, or prohibits me from walking through the zone to get to the store in the next block, or prohibits me from walking through the zone with my Crucifix to locate myself in a stationary place on the opposite side. In each of these instances

my desire is to use the zone to reach a destination other than the facility but it is not my sole purpose. I do my best to steer clear of the zone entirely because I do not want to be arrested.

6. For the past fifteen years I have prayed the Rosary, displayed my Crucifix, and sung religious hymns nearly every Saturday from about 8:00 a.m. until 9:30 a.m. at the Planned Parenthood abortion facility at 1055 Commonwealth Avenue, Boston (hereafter, "clinic"). The clinic is located at the corner of Commonwealth Avenue and Alcorn Street. The front entrance to the clinic is located directly off a 25-foot wide public sidewalk through a recessed walkway approximately 10 feet long. Men and women entering the front of this facility must walk across the public sidewalk to do so.

7. Police are present approximately 90% of time when I am at the clinic, and have been for the past fifteen years.

8. On or after November 14, 2007, a sign was posted and a line was marked in yellow paint in a 35-foot radius around the entrances of the clinic. The radius of the zone encompasses nearly the entire sidewalk in front of the clinic. At the tip of the radius there is approximately 12 inches of sidewalk before the paved street begins.

9. I pray the Rosary out loud so escorts, clients, and passersby can hear my prayer.

10. Prior to enactment of the zone, my customary routine when praying and/or displaying my Crucifix was to stand stationary on the public sidewalk directly in front the clinic entrance about six feet from the curb. This area is now inside the zone.

11. I always pray the Rosary with other Catholics so escorts, clients, and passersby can clearly hear our combined prayer and perhaps reconsider abortion. In my experience praying in groups tends to make my overall message more effective.

12. In the fifteen years I prayed or displayed my Crucifix to passersby on the public sidewalk at the clinic up to the present time I repeatedly witnessed clinic "escorts" surround, cluster, or walk with clinic clients in areas now occupied by the zone.

13. Escorts were easily identifiable because they always wore blue vests marked with the words, "PLANNED PARENTHOOD ESCORT."

14. Subsequent to the zone being marked by a yellow line, on or after November 14, 2007, I saw escorts in blue vests standing still on the public sidewalk and street inside the zone. They stood inside the zone even when clinic clients were not present. I saw them drink coffee and talk with each other while inside the zone.

15. Subsequent to the passage of the 35-foot buffer law I have refrained from praying the Rosary or displaying my Crucifix inside the zone at the clinic out of fear that I would be arrested and incarcerated. I desire to pray the Rosary and display my Crucifix inside the zone but cannot do so without risking arrest and incarceration. I am not willing to take that risk.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 29th day of DECEMBER 2007.


Gregory A. Smith